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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/336,091	06/18/99	VAN SNICK	J L0461/7063-J

HM12/0130

EXAMINER

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SCHWADRON, R

ART UNIT	PAPER NUMBER
1644	9

DATE MAILED:

01/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. 09/336,091	Applicant(s) Van Snick et al.
Examiner Ron Schwadron, Ph.D.	Group Art Unit 1644

Responsive to communication(s) filed on \_\_\_\_\_

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 1, 2, 5, 7, 9, 11, 14, 16, 18, 21, 23, 29, 33, 37, 43, 50, 57, 61, 68, 72, 76-83 is/are pending in the application.

Of the above, claim(s) 16, 18, 21, 23, 29, 33, 37, 43, 50, 57, 61, 68, 72 is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) \_\_\_\_\_ is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims 1, 2, 5, 7, 9, 11, 14, 76-83 are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. Applicant's election of Group I and the species SEQ. ID. NO. 7 in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 16,18,21,23,29,33,37,43,50,57,61,68,72 are withdrawn from further consideration by the examiner, 37 C.F.R. § 1.142(b) as being drawn to nonelected inventions. Election was made without traverse in Paper No. 6.

3. Claims 1,2,5,7,9,11,14,76-83 are under consideration.

4. In view of the amendment filed 11/2/2000, the following species election is now required.

5. Claim 79 is generic to a plurality of disclosed patentably distinct species, wherein said species are the particular type of peptide variants recited in said claim.

These peptides are structurally distinct and have different physiologic properties..

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. Claims 78,83 are generic to a plurality of disclosed patentably distinct species, wherein said species are

A)endosomal targeting portion of II

B)endosomal targeting portion of LAMP-1

These peptides are structurally distinct and have different physiologic properties..

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

7. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Dr. Ron Schwadron whose telephone number is (703) 308-4680. The examiner can normally be reached Monday through Thursday from 7:30 to 6:00. A message may be left on the examiners voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ms Christina Chan can be reached on (703) 308-3974. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

RONALD B. SCHWADRON  
PRIMARY EXAMINER  
GROUP 1600 1600



Ron Schwadron, Ph.D.  
Primary Examiner  
Art Unit 1644  
January 29, 2001